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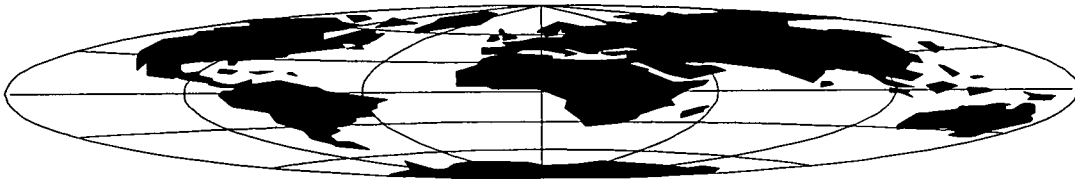
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## INTERNATIONAL COLUMN

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### HOPE FOR THE FUTURE RECOGNITION OF WOMEN'S RIGHTS IN ASYLUM DECISION

*by* Laura Vasquez

Should the criteria for a discretionary grant of asylum in the United States extend to women who are fleeing gender-based persecution and violence in their home countries? This question is often complicated by the view that the violence inflicted is an internally accepted practice rooted in cultural tradition. It is an issue which is increasingly relevant as women from other countries who suffer gender related violence seek refuge in the United States.

The United States has adopted internationally recognized standards for extending asylum to foreigners. According to the Immigration and Nationality Act, 8 U.S.C. §1101(a)(42) (1988), in order to qualify for a discretionary grant of asylum in the United States, an applicant must show that she has experienced or has a well-founded fear of persecution in her homeland based on her race, religion, nationality, membership in a particular social group, or political opinion. Notably absent among these criteria is persecution based on gender. Thus, many women who are fleeing persecution and violence in their home countries are afforded no protection under United States asylum law.

Throughout the world, women are victimized in ways that men are not. Such gender-based violence against women can take on very dramatic and horrific forms. Women are subject to bride burning in India and genital mutilation in Africa, the Middle East and Southeast Asia. They are subject to forced marriages, abortions, and sterilizations, as well as politically motivated rape in such places as Bosnia-Herzegovina. Nonetheless, women who have experienced these extreme forms of violence are not eligible for asylum in the United States. Violence that is directed at a person because she is a woman does not satisfy the criteria of persecution based on race, religion, nationality, or membership in a particular social group or political opinion which is necessary for a discretionary grant of asylum. Much of the time, violence against women is perceived as a private transgression with no political or governmental involvement and, therefore, no recourse or remedy is available in international or domestic asylum law.

There is encouraging movement in the United States to address the issue of systematic violence against women throughout the world. This was demonstrated recently when an immigration judge in Seattle, Washington dropped deportation proceedings against Lydia Oluloro who was facing deportation to Nigeria. Mrs. Oluloro feared return to her native country because of the threat of genital mutilation being perpetrated against her daughters. She argued that if returned, her two daughters, born in the U.S., would be forced to undergo genital mutilation in accord with ancient rituals that are widely practiced in Nigeria. The immigration judge did not grant Mrs. Oluloro asylum. However, the judge did find that dismissal of the deportation case was appropriate because Mrs. Oluloro had been in the United States for at least seven years, had shown good moral character and would face hardship if forced to leave the United States. The decision to dismiss the deportation proceedings against Mrs. Oluloro suggests a victory for those who argue that genital mutilation, while widely practiced, is a violation and abuse of international human rights standards.

In accord with these internationally recognized human rights standards, the Nigerian government has condemned the practice of genital mutilation in Nigeria. Despite this official condemnation of the practice, virtually all girls in the southern, predominantly Christian, region of Nigeria are subject to some form of genital mutilation. Nearly half of those in the northern, predominantly Muslim, portion of the country are mutilated at an early age. In most cases it is a procedure which involves the removal of the clitoris or the labia with a knife or a razor blade, usually without any form of anesthetic. Sometimes referred to as "female circumcision", this procedure has been known to result in extreme discomfort, infections, difficult and painful urination, complications in childbirth, and death.

Hopefully, the case of Mrs. Oluloro and her children represents the beginning of an era in which the right of women to be free from violence and oppression is recognized to the same extent as the right to be free from violence on account of race, religion, nationality, political opinion, or social group. Such recognition is encouraging because it legitimates violence against women as a governmental concern in the consideration of asylum cases and indicates a willingness to see women's rights as human rights.